

**TAB A**

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

|   |   |                             |
|---|---|-----------------------------|
| <b>In the Matter of</b>                         | ) |                             |
|   | ) |                             |
| <b>Application of BellSouth Corporation,</b>    | ) |                             |
| <b>Pursuant to Section 271 of the</b>           | ) | <b>WC Docket No. 02-307</b> |
| <b>Telecommunications Act of 1934,</b>          | ) |                             |
| <b>To Provide In-Region, InterLATA Services</b> | ) |                             |
| <b>In Florida and Tennessee</b>                 | ) |                             |
|   | ) |                             |

**DECLARATION OF JAY M. BRADBURY  
ON BEHALF OF AT&T CORP.**

1. My name is Jay M. Bradbury. My business address is 1200 Peachtree Street, Atlanta, Georgia. Currently I am employed by AT&T Corp. ("AT&T") as a District Manager in the Law and Government Affairs Organization.

2. I graduated with a Bachelor of Arts degree from The Citadel in 1966. I have taken additional undergraduate and graduate courses at the University of South Carolina and North Carolina State University in Business and Economics. I earned a Masters Certificate in Project Management from the Stevens Institute of Technology in 2000.

3. I have been employed in the telecommunications industry for more than thirty years with AT&T, including 14 years with AT&T's then-subsiidiary, Southern Bell. I began my AT&T career in 1970 as a Chief Operator with Southern Bell's Operator Services Department in Raleigh, North Carolina. From 1972 through 1987, I held various positions within Southern Bell's (1972 – 1984) and AT&T's (1984 – 1987) Operator

Services Departments, where I was responsible for the planning, engineering, implementation and administration of personnel, processes and network equipment used to provide local and toll operator services and directory assistance services in North Carolina, South Carolina, Kentucky, Tennessee and Mississippi. In 1987, I transferred to AT&T's External Affairs Department in Atlanta, Georgia, where I was responsible for managing AT&T's needs for access network interfaces with South Central Bell, including the resolution of operational performance, financial and policy issues.

4. From 1989 through November 1992, I was responsible for AT&T's relationships and contract negotiations with independent telephone companies within the South Central Bell States and Florida. From November 1992 through April 1993, I was a Regulatory Affairs Manager in the Law and Government Affairs Division. In that position, I was responsible for the analysis of industry proposals before regulatory bodies in the South Central states to determine their impact on AT&T's ability to meet its customers' needs with services that are competitively priced and profitable. In April 1993, I transferred to the Access Management Organization within AT&T's Network Services Division as a Manager – Access Provisioning and Maintenance, with responsibility for ongoing management of processes and structures in place with Southwestern Bell to assure that its access provisioning and maintenance performance met the needs of AT&T's strategic business units.

5. In August 1995, as a Manager in the Local Infrastructure and Access Management Organization, I became responsible for negotiating and implementing operational agreements with incumbent local exchange carriers needed to support AT&T's

entry into the local telecommunications market. I was transferred to the Law and Government Affairs Organization in June 1998, with the same responsibilities. One of my most important objectives in these negotiations has been to ensure that BellSouth provides AT&T with efficient and nondiscriminatory access to BellSouth's Operations Support Systems ("OSS") throughout BellSouth's nine-state region to support AT&T's market entry. As part of my overall responsibilities, I have personally spent hundreds of hours in direct negotiations and implementation meetings with BellSouth personnel and subject matter experts. My activities have included direct participation in OSS implementation teams, review and analysis of data from the testing and use of BellSouth's interfaces as they are implemented, and continuing consultation with AT&T decisionmakers concerning OSS. In addition, I have testified on behalf of AT&T in a number of State public utility commission proceedings regarding OSS issues, including Section 271 proceedings in all nine States in the BellSouth region. I have also testified on behalf of AT&T in the proceedings before this Commission regarding BellSouth's previous applications to provide in-region interLATA service in seven of the States of its region.

**I. PURPOSE AND SUMMARY OF DECLARATION**

6. This Declaration addresses BellSouth's claim that it provides nondiscriminatory access to its OSS, as required by the Telecommunications Act of 1996 ("the 1996 Act").<sup>1</sup> This is demonstrably not the case, as BellSouth's current change management process does not afford CLECs a meaningful opportunity to compete.

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<sup>1</sup> See Brief in Support of Application by BellSouth for Provision of In-Region, InterLATA Services in Florida and Tennessee, filed September 20, 2002, at 39; Affidavit of William N. Stacy ("Stacy Aff."), ¶ 487.

7. In the *Georgia/Louisiana 271 Order* and the *Five-State 271 Order*, the Commission held, based on the record before it, that BellSouth's CCP complied with Section 271. In both orders, however, the Commission expressed concern about certain aspects of the CCP, and stated its expectation that BellSouth would improve the CCP in the future. Whatever the record may have indicated in those proceedings, BellSouth has not complied with the Commission's directive to improve its CCP – and as a result the CCP is not currently in compliance with Section 271.

8. As described in Section II, BellSouth boasts of the recent improvements that it has made to the CCP. However, BellSouth's performance has been nothing to brag about. Improvements have occurred only as a result of continuing scrutiny and action of regulators as BellSouth has sought Section 271 authority in various states. BellSouth has been unwilling on its own to devote the resources necessary to make available its OSS systems on a nondiscriminatory basis. Even with ongoing regulatory scrutiny, BellSouth retains exclusive control over the prioritization and implementation of change requests. The "50/50 prioritization proposal" that BellSouth cites as evidence of its cooperation with CLECs (Application at 48-49) is nothing of the sort; rather it demonstrates BellSouth's dominance and control over the CCP, as BellSouth unilaterally imposed that plan over the objections of the CLECs.

9. Similarly, as discussed in Section III, the 2003 Release Plan of BellSouth – which (along with BellSouth's proposed "alternatives" to the original release plan) BellSouth discusses at length in its Application – dramatically illustrates the problems with BellSouth's existing CCP. CLECs are still waiting up to three years to

have OSS changes implemented. The proposed alternatives that BellSouth has developed to the preexisting 2003 Release Plan were not necessitated by an order from the Florida PSC (as BellSouth would have this Commission believe), but instead resulted from BellSouth's failure to plan and develop changes to its systems in a competent (and stable) manner. BellSouth has already made clear that it will seek to be relieved of its obligation to pay monetary penalties under its performance assurance plans for failure to implement existing change requests within 60 weeks of their prioritization. Such fudging by BellSouth is precisely the problem, as it is unwilling to make the commitment -- or to stand behind such a commitment -- to implement change requests on a timely basis. The various versions of the 2003 Release Plan described in BellSouth's Application further reflect continuing deficiencies in the CCP: (1) BellSouth's continuing control of the CCP; (2) the unreasonably long times that BellSouth takes to implement change requests; and (3) BellSouth's noncompliance with the CCP.

10. Finally, as discussed in Section IV, the releases that BellSouth implements continue to be plagued with significant defects, reflecting BellSouth's failure to devote the necessary resources to conduct internal testing. BellSouth relies on a report of the Q/P Management Group ("Q/P") as evidence that the defects in its releases are minimal, but the methodology of the Q/P report is as flawed as BellSouth's software releases themselves. Despite its protestations to the contrary, BellSouth's software development quality is, and remains, poor. The problems that these defects cause for CLECs are compounded by BellSouth's failure to correct the defects in a timely manner.

11. In short, BellSouth continues to talk the OSS talk, but does not walk the OSS walk. It touts imaginary improvements but must be dragooned by regulators into making the most minimal changes. CLECs currently wait over 3 years to have needed OSS changes implemented and have no assurance that this implementation time will improve to anything approaching a commercially reasonable period. How can this be regarded as nondiscriminatory?

**II. CLOSE REGULATORY SCRUTINY OF BELL SOUTH'S CHANGE MANAGEMENT PROCESS IS CRITICAL TO ENSURING THAT CLECS HAVE AN ADEQUATE OPPORTUNITY TO COMPETE.**

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12. An effective change management process is essential to establishing and maintaining nondiscriminatory access to an ILEC's OSS. Likewise, the correction of errors (defects) that occur in the implementation of systems and processes are dependent upon the existence, adherence to, and effective operation of a change management process. The CCP impacts all OSS functions (pre-ordering, ordering, provisioning, maintenance, and billing) and the measurement of their performance.

13. Thus, any analysis of BellSouth's application should include close scrutiny of the CCP as it exists at the time of the application. The Commission, in fact, has already made clear that it will not assume that the CCP complies with Section 271 today simply because it approved BellSouth's two most recent applications. In its order approving BellSouth's five-state application, the Commission noted that although it found the CCP to be adequate on the basis of the record, "We recognize . . . that as a general matter, section 271 requirements are constantly evolving, so that what is sufficient for checklist compliance today may not be sufficient over time." *Five-State 271 Order*, ¶ 179.

Furthermore, if the Commission found the CCP to be adequate solely on the basis of prior decisions, BellSouth would have no incentive to make the improvements in its CCP that the Commission's previous orders obviously expected – but which, as described below, BellSouth is far from fulfilling.

14. In both the *Georgia/Louisiana 271 Order* and the *Five-State 271 Order* the Commission made clear that, notwithstanding its approval of BellSouth's applications, it continued to be concerned about the adequacy of the CCP – and expected BellSouth to improve it. For example, in the *Georgia/Louisiana 271 Order*, the Commission stated:

While we find BellSouth's performance to be adequate, we note that it is important that BellSouth continue to work collaboratively with competitive LECs through the Change Control Process on prioritization issues, provide competitive CLECS with sufficient information to be able to make informed decisions regarding prioritization of proposed systems changes, and implement changes in a timely manner. Should any problems in this regard develop such that the requirements of section 271 are no longer met, we are prepared to take appropriate enforcement action.

*Georgia/Louisiana 271 Order*, ¶ 193.

15. In the *Five-State 271 Order*, the Commission expressed concern that “many of the same problems with BellSouth's adherence to its change management process that we noted in the [*Georgia/Louisiana 271 Order*] still exist.” *Five-State 271 Order*, ¶ 178. For example, the Commission stated that it was “concerned by the length of time that some competitive LECs have been waiting for their change request to be implemented. . . . Although we do not find the current level of backlogged change requests causes BellSouth to fail this checklist item, *it is not a trend we wish to see continue.*” *Id.*, ¶ 196 (emphasis added). The Commission particularly noted: (1) the

evidence that most of the feature change requests implemented in BellSouth's recent Release 10.5 were submitted "approximately two to three years prior to implementation"; (2) BellSouth's acknowledgement that it would not significantly reduce the backlog of change requests until late 2003; and (3) the DOJ's concern that BellSouth was not "committing sufficient resources overall" to the process of upgrading the OSS used by the CLECs. *Id.* & n.755.

16. Although the *Five-State Order* ultimately found the CCP to be adequate, it did so on the basis of the short time period since the issuance of the *Georgia/Louisiana 271 Order*, the reported improvements in the CCP since BellSouth's Georgia/Louisiana application, and BellSouth's "future commitments to its change management process and performance." *Id.*, ¶ 179. At the same time, the Commission emphasized not only that Section 271 requirements are constantly evolving, but that it was "essential" for BellSouth to:

- Follow through on its commitment to improve its change management process and adherence;
- Continue to work collaboratively with competitive LECs through the CCP on prioritization issues;
- Provide CLECs with sufficient information to be able to make informed decisions regarding prioritization of proposed systems changes; and
- Implement changes in a timely manner.

*Id.*

Thus, the Commission directed its Enforcement Bureau's Section 271 Compliance Team "to monitor BellSouth's *entire* change management process, and specifically its

*performance under that process.” Id.* (emphasis added). As in the *Georgia/Louisiana 271 Order*, the Commission stressed that if BellSouth’s performance under the CCP thereafter violated the checklist, the Commission would “not hesitate to take action pursuant to section 271(d)(6).” *Id.*

17. Like the *Georgia/Louisiana 271 Order*, the *Five-State 271 Order* set forth specific expectations of improvement in BellSouth’s performance. For example, the Commission stated:

[W]e expect BellSouth to follow through on its commitments to improve the efficiency of its change management process. We note that there are significantly fewer BellSouth-initiated change requests than competitive LEC-initiated requests. As allowed by the 50/50 plan in the CCP, BellSouth could use some of its half of the release capacity to implement some of the more highly prioritized or older competitive LEC requests during the course of the next year. If BellSouth continues to evidence an inability to reduce its backlog of change requests, we will consider this issue in the context of a section 271 (d)(6) enforcement action. Therefore, we will monitor BellSouth’s performance, and we expect and encourage BellSouth to continue to devote adequate resources to this issue.

*Id.*, ¶ 196.

18. Almost five months have passed since the Commission’s first approval of BellSouth’s CCP in the *Georgia/Louisiana 271 Order*. The concerns expressed in that order, by themselves, call for close scrutiny of the CCP in this proceeding. BellSouth’s latest application, together with recent events, show that what the Commission regarded as sufficient for checklist compliance then is not sufficient now.

19. Indeed, experience has shown that it is only under close regulatory scrutiny that BellSouth will even consider making improvements to, or complying with, its CCP. Throughout his affidavit, Mr. Stacy discusses a number of improvements that have been made since early 2002, or are planned to occur in the future. *See, e.g., Stacy Aff.*, ¶¶

137-140. Many of these improvements have not been initiated by BellSouth, however, but have occurred only as the direct result of regulatory orders in Florida and Georgia when BellSouth has refused to proceed voluntarily or collaboratively.

20. Most recently, on September 17, 2002, the Georgia Public Service Commission adopted its Staff's Recommendation to require BellSouth to implement significant changes to the CCP that BellSouth had refused to consider during collaborative meetings with the CLECs ending on May 2, 2002.<sup>2</sup> Although Mr. Stacy discusses the Staff Recommendation and Order of the Georgia PSC insofar as they involve new performance measurements for change management (*e.g.*, Stacy Aff., ¶196), he fails to mention that the Georgia PSC resolved in the CLECs' favor many issues regarding changes to the CCP that BellSouth opposed.<sup>3</sup> For example, as the CLECs requested, the Georgia PSC:

- Retained the existing definition of a defect.
- Required the implementation of feature changes within 60 weeks of prioritization.
- Rejected BellSouth's attempt to qualify its obligation under the CCP to implement change requests within 60 weeks of prioritization with the *caveat* that such implementation was "subject to capacity."
- Required the implementation of mandates without dates certain within 60 weeks.
- Required the use of the CLEC-recommended forecast and actual capacity reporting forms.

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<sup>2</sup> Georgia Performance Measures Six Month Review, Georgia PSC. Docket No. 7892-U.

<sup>3</sup> See, also, *e.g.*, Stacy Aff., ¶¶ 204, 272-274.

- Required the on-going reporting of request sizing information as it changes from prioritization through the implementation of CRs.
- Retained the existing language of the CCP on the timing of prioritization meetings.
- Required BellSouth to obtain CLEC concurrence to changes in the order of implementation of CLEC-initiated changes.
- Required the implementation of the CLECs' proposed "Negotiated Extended Implementation" for specific change requests.

21. The continued need for regulatory involvement to bring about these improvements in the CCP demonstrates that BellSouth's "collaborative" spirit is not "voluntary." While the CLECs appreciate all true improvements that have been made this year to the CCP, such changes would not have occurred without actual regulatory orders or pressure from regulatory bodies. BellSouth has yet to demonstrate that it has become proactive regarding the CCP.

### **III. BELLSOUTH'S 2003 RELEASE PLAN SIMPLY REFLECTS THE INADEQUACIES OF ITS CHANGE CONTROL PROCESS.**

22. In his affidavit, Mr. Stacy discusses at length BellSouth's 2003 Release Plan and BellSouth's Action Plan regarding the 60-week change implementation interval filed with the Florida Public Service Commission on August 30, 2002. *See* Stacy Aff., ¶¶ 224-247 & Exh. WNS-54. Although Mr. Stacy discusses the original 2003 Release Plan and the two alternatives to that plan that BellSouth proposed ("proposed Plan A" and "Proposed Plan B"), the release plan to which the CLECs agreed on September 18, 2002, is actually the plan described as "Option 1" in Exhibit WNS-108 to Mr. Stacy's affidavit.<sup>4</sup>

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<sup>4</sup> The plan is constrained by a number of caveats placed on it orally by BellSouth during a 2003 Release Schedule meeting held on September 13, 2002. The minutes of that meeting

“Option 1” differs from “Proposed Plan B” only in that the former retains implementation of Interactive Agent in Release 12.0, rather than defer implementation of that functionality to Release 13.0. *See id.*, ¶ 241.

23. Mr. Stacy claims that BellSouth’s decision to offer “Plan A” and “Plan B” as alternatives to its preexisting 2003 Release Plan reflects the “dilemma” in which it has been placed by the recent order of the Florida PSC, which BellSouth describes as requiring BellSouth to implement all existing Type 4 and Type 5 change requests within 60 weeks. *Id.*, ¶¶ 224-225. There is no “dilemma” at all for BellSouth, as BellSouth has created the situation by its failure to devote sufficient resources and its “slow rolling” of implementation of CLEC change requests. Moreover, BellSouth’s recent “proposals” simply reflect several fundamental inadequacies of the change management process – including its control over prioritization, its disregard of the CCP, and the lengthy delays it has imposed upon the implementation of change requests.

24. To the extent that BellSouth is committing itself to implementing all pending Type 4 and Type 5 change requests within 60 weeks, that commitment would be welcome (and long overdue). However, in attempting to blame its “dilemma” on the Florida PSC’s order prescribing a performance measurement regarding implementation of these change requests within 60 weeks, BellSouth is simply setting up a straw man. The Florida PSC’s order did not require implementation of all existing change requests within 60 weeks of prioritization. Moreover, the new performance measurement adopted by the Florida PSC regarding implementation of change requests will not even take into account

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(attached hereto as Attachment 1) capture many of these caveats.

a number of current change requests. For purposes of the measurement, the 60-week period, for penalty purposes, applies only to those change requests that are prioritized on or after September 25, 2002 – not to change requests that have already been prioritized – and begins running only from the date of prioritization.

25. Moreover, notwithstanding its professed “dilemma,” BellSouth has already sought to be relieved of any obligation to implement current change requests within a 60-week period. In the action plan that it filed with the Florida PSC with respect to the new performance metric, BellSouth argued that it should not be required to pay penalties for failure to meet either its original 2003 Release Plan or its “Plan B” (to which the CLECs ultimately agreed, in modified form). BellSouth also made clear that, if necessary, it would formally seek a waiver of such penalties.<sup>5</sup>

26. The changes in the 2003 Release Plan result from BellSouth’s repeated failures to conduct adequate planning, and from votes that BellSouth forced upon the CLECs in June and September following those planning failures. These votes – which required CLECs to choose between pre-determined alternatives presented by BellSouth – create the false impression that a collaborative process has taken place. In reality, in September, BellSouth advised the CLECs that if they did not choose a plan, by September 18, 2002, among the three which BellSouth offered (the original 2003 Release Plan, “Plan A,” and “Plan B”), BellSouth would reduce the amount of capacity available in 2003 for each day by which the CLECs delayed their decision. The CLECs were similarly

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<sup>5</sup> See Stacy Aff., Exh. WNS-54 (BellSouth’s Proposed Plan To Meet Percent-of-Change-Requests-Implemented-Within-60-Weeks of Prioritization Metric, filed August 30, 2002, in Florida PSC Docket No. 000121-TP).

threatened in May and June when BellSouth developed and presented a set of pre-determined alternatives to the CLECs focused on having or not having an Industry Standard release in 2003.

27. On June 5, 2002, the CLECs elected to have an Industry Standard release in 2003, resulting in the schedule of releases at the estimated unit capacities shown in paragraph 228 of Mr. Stacy's affidavit. However, at that time 100 percent of the capacity in Releases 12 and 14 was devoted to two BellSouth infrastructure migrations: (1) the implementation of the conversion of the TAG interface to Extensible Markup Language ("XML"); and (2) migration from the ENCORE platform to an Integrated Data Network ("IDN") platform. *See id.*, ¶¶ 19, 238. BellSouth did not file a change request for either of these changes, and has never provided the CLECs with any sizing information for either effort. Both of these omissions are clear violations of the CCP.

28. On July 19, 2002, BellSouth advised the CLECs that the migration from Encore to IDN was being delayed because "additional information is needed from the planning and analysis phase before this migration can take place."<sup>6</sup> BellSouth made this decision on the CLECs' highest-prioritized change request without consulting CLECs and simply announced that instead Interactive Agent and the EDI-Pre-Ordering interface would be implemented along with four requests from the Flow-Through Task Force in the March 2003 release BellSouth had previously reserved to itself.

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<sup>6</sup> BellSouth Change Management Team, Minutes of Release 12.0 Package Meeting Held July 19, 2002, at 2 (prepared July 22, 2002) (attached as Attachment 2 hereto).

29. In addition to its failure to compile the information necessary to implement the migration to IDN, BellSouth later claimed to have underestimated the effort required to implement the EDI Pre-Ordering interface. BellSouth's initial sizing of this project, provided to the CLECs in May, was for 21 units of effort. In July, when BellSouth moved its implementation into 2003 Release 12, the estimate had not changed. Throughout July and August, joint meetings concerning the implementation of EDI Pre-Ordering were held by BellSouth and the CLECs without any indication from BellSouth of changes to the sizing. Only in late August, in conjunction with the publication of BellSouth's Florida Action Plan, were the CLECs informed that BellSouth had grossly miscalculated the amount of capacity required. BellSouth's new estimate called for 100.88 units, rather than the 21 units that it originally estimated.<sup>7</sup>

30. BellSouth's independent failure to properly plan for the implementation of the ENCORE to IDN migration should be of particular concern to the Commission. In an *ex parte* letter filed on August 16, 2002, in the *Five-State 271* proceeding, BellSouth and Mr. Stacy represented that this change would remove a number of constraints upon BellSouth's software development and improve BellSouth's ability to respond to CLEC requests. BellSouth stated that this new platform "would, among other things, allow development parallel to LESOG, and provide a rules-based service order generator that would accelerate future system development," and "will provide a more flexible, scalable architecture that will continue to improve BellSouth's ability to respond to CLEC

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<sup>7</sup> See Stacy Aff., ¶ 230. As Mr. Stacy notes, BellSouth's estimate for Interactive Agent was also understated. *Id.* The change from 96.6 units to 103.78 units (a total of 7 units) is insignificant in comparison to the 80 unit error in the EDI Pre-Order estimate.

requests.”<sup>8</sup> Although BellSouth repeats the same claims in this docket, it now states that the work will continue into 2004 – not merely into 2003, as the *ex parte* letter claimed. Stacy Aff., ¶ 216. In fact, as discussed above, BellSouth plans no additional implementation for this migration in 2003. BellSouth made that decision before the filing of its *ex parte* letter, the publication of the *Five-State 271 Order*, or the filing of its latest application.

31. In short, BellSouth is not foregoing its ENCORE infrastructure migration to implement CLEC change requests to comply with the new metric ordered by the Florida PSC. Rather, BellSouth “botched” its planning for this effort, and is simply hiding behind the fortuitous timing of the Florida Commission’s actions by proposing to implement CLEC changes so as to utilize capacity it had previously reserved to itself before it had completed its planning process. As noted below (in the table at paragraph 36 and in footnote 10), BellSouth is simultaneously violating its own 50/50 Plan policies by scooping at least three of its own changes into the next CLEC Production Release (Release 13) ahead of CLEC-initiated changes with higher prioritizations.

32. As described above, the Commission noted in the *Five-State 271 Order* that there were very few BellSouth-initiated change requests “in the pipeline” and suggested that BellSouth could use some of its half of the release capacity to implement some of the more highly prioritized or older CLEC change requests during the course of the next year. It remains to be seen whether BellSouth will actually do so. But BellSouth

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<sup>8</sup> See *ex parte* letter from Glenn T. Reynolds (BellSouth) to Marlene H. Dortch, filed August 16, 2002, in WC Docket No. 02-150, at 4.

refuses to allow CLECs to participate meaningfully in a joint determination of which changes to implement and to obtain the most beneficial improvement of BellSouth's OSS without regard to the origin of the change. Without meaningful participation in that process, CLEC cannot have any hope of timely implementation of their change requests.

33. BellSouth has not filed change requests to support either the ongoing TAG XML conversion or the postponed ENCORE – IDN migration. Thus, the CLECs still do not know the capacity required for the two conversions. However, it is clear from BellSouth's allocation of two releases to itself totaling 614 units that these efforts collectively must require several hundred units, as the eight<sup>9</sup> other known and sized BellSouth-initiated software changes are estimated (by BellSouth) require only 156 units.

34. BellSouth's failure to provide sizing information for the TAG-XML and ENCORE-IDN projects, and whatever other changes it expects to make in utilizing its 50 percent of the available capacity as CRs, demonstrates its continuing failure to provide CLECs with the information that they need to make meaningful decisions regarding the prioritization of change requests. BellSouth's claim of increased "transparency" in its internal prioritization process is a sham. *See Stacy Aff.*, ¶¶ 138, 196.

35. The current 2003 Release Plan (which, as previously stated, is "Option 1" on Exhibit WNS-108) was voted on by the CLECs on September 18, 2002 and is subject to the *caveats* expressed by BellSouth on September 13, 2002 (Attachment 1

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<sup>9</sup> In the *Five-State 271 Order*, the Commission noted there were only nine active BellSouth initiated change requests. *Five-State 271 Order*, ¶ 196 n.757. However, one of the nine CRs covers the process changes to the CCP and does not involve software development.

hereto). BellSouth stated that the CRs associated with Releases 11.0 (a 2002 release) and 12.0 are scheduled, while the CRs indicated as associated with the other releases are simply “targeted.” BellSouth promised only to deliver a finalized scope and schedule “within 2 weeks from the time an option is selected by the CLECs.” Attachment 1 at 3.

36. Even if BellSouth implements all the change requests in these releases as scheduled, their implementation reflects a continuing deficiency of the CCP: BellSouth’s failure to implement change requests in a timely manner. The following table (which is organized by release and date of submission) depicts the unduly lengthy intervals that have elapsed since submission of the CRs currently included within the plan for implementation.

| <b>Release / CR</b>  | <b>CR Submission Date</b> | <b>Interval to Scheduled Date (in Months)</b> |
|--|---------------------------|---|
| <b>Release 12.0 sized at 182 Units scheduled for 3/30/03</b> |                           |   |
| CR0186   | 9/00                      | 30  |
| CR0652   | 2/02                      | 13  |
| FTTF#15 (729)  | 7/01                      | 20  |
| FTTF #9 (495)  | 9/01                      | 18  |
| FTTF#11 (496)  | 9/01                      | 18  |
| FTTF#17 (674)  | 2/02                      | 13  |
| <b>NANC 3.2 sized at 99 Units scheduled for May 03</b>       |                           |   |
| <b>Release 13.0 sized at 600 Units scheduled for 6/8/03</b>  |                           |   |
| CR0085   | 6/00                      | 36  |
| CR0101   | 7/00                      | 35  |
| CR0113 <sup>10</sup>   | 7/00                      | 35  |

<sup>10</sup> CR0113, CR0336, and CR0408 are BellSouth-initiated change requests. Under the “50/50” plan, these changes are not to be implemented in a CLEC Production Release unless the CLECs themselves elect to do so. BellSouth, however, did not specifically

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|--|-------|----|
| CR0176   | 9/00  | 33 |
| CR0184/0246  | 9/00  | 33 |
| CR0221   | 12/00 | 30 |
| CR0336   | 3/01  | 27 |
| CR0392   | 5/01  | 25 |
| CR0408   | 5/01  | 25 |
| CR0440   | 7/01  | 23 |
| CR0443 <sup>11</sup>   | 6/01  | 24 |
| CR0466   | 8/01  | 22 |
| CR0629   | 1/02  | 17 |
| CR0675   | 2/02  | 16 |
| CR0690   | 3/02  | 15 |
| FTTF#16 (088)  | 6/00  | 36 |
| <b>Release 15.0 sized at 1565 Units scheduled for 12/15/03</b>             |       |    |
| ELMS-6   |       |    |
| <b>Reserved Capacity sized at 210 Units</b>                                |       |    |
| Unspecified  |       |    |
| <b>5 Maintenance Releases sized at a total of 374.5 Units<sup>12</sup></b> |       |    |

37. BellSouth's Option 2, which the CLECs elected not to adopt, would have deferred the implementation of the ELMS-6 industry release until April 2004 and retained Release 14, supposedly resulting in the implementation of four additional feature change requests and two additional Flow-Through Task Force ("FTTF") requests. The

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request CLEC concurrence with these changes within Release 13.

<sup>11</sup> BellSouth has stated that this CR (the CLEC's #4 priority) will be implemented in "phases," but has provided no information on the makeup of any of the phases.

<sup>12</sup> BellSouth has severely underestimated 2003 maintenance requirements. In the first half of 2002, BellSouth has expended 377 units on maintenance – a rate that projects to 754 units for the entire year. It is unrealistic to believe that 2003 requirements will be less than half the 2002 requirement.

following table depicts the intervals since submission of the additional CRs within Release 14 of Option 2.

| Release / CR   | CR Submission Date | Interval to Scheduled Date Months |
|--|--------------------|-----------------------------------|
| <b>Release 14.0 sized at 283 Units scheduled for 9/28/03</b> |                    |                                   |
| CR0104   | 7/00               | 38                                |
| CR0127   | 8/00               | 37                                |
| CR0179   | 9/00               | 36                                |
| CR0676   | 2/02               | 19                                |
| FTTF#13 (273)  | 1/01               | 32                                |
| FTTF#14 (621)  | 1/02               | 20                                |

38. Neither Option 1 nor Option 2 reflects timely implementations of feature change requests by BellSouth. Once again, as the Commission noted in the *Five-State 271 Order*, implementation of most proposed feature change request will occur two to three years after their submission, as shown in the table below.

|                       | 0-6 months | >6-12 months | >12-18 months | >18-24 months | >24-30 months | >30-36 months | >36 months |
|-----------------------|------------|--------------|---------------|---------------|---------------|---------------|------------|
| Option 1 (17 CRs)     | -          | -            | 4             | 3             | 5             | 5             | -          |
| Option 1 + 2 (21 CRs) | -          | -            | 4             | 4             | 5             | 6             | 2          |

39. Even if the FTTF change requests proposed for implementation are taken into account, the time intervals between submission and implementation do not significantly improve, as shown in the table below.<sup>13</sup>

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<sup>13</sup> BellSouth continues to misstate the status of the FTTF in this docket. In its brief BellSouth states, "Thirty five items have been identified - all of which have been implemented." Application at 72. Mr. Stacy's affidavit is more correct in describing the information presented, but still inaccurate in describing the status of the FTTF, "Exhibit

|                             | 0-6<br>months | >6-12<br>months | >12-18<br>months | >18-24<br>months | >24-30<br>months | >30-36<br>months | >36<br>months |
|-----------------------------|---------------|-----------------|------------------|------------------|------------------|------------------|---------------|
| Option 1<br>(22 CRs)        | -             | -               | 7                | 4                | 5                | 6                | -             |
| Option 1<br>+ 2 (28<br>CRs) | -             | -               | 7                | 6                | 5                | 8                | 2             |

40. Thus, the lengthy implementation intervals that the Commission labeled as a trend it did “not wish to see continue” (*Five State 271 Order*, ¶ 196) is exactly what will happen in 2003 and beyond, because – contrary to the Commission’s expectations – BellSouth is unwilling to commit sufficient resources overall to the process of upgrading the interfaces to its OSS used by the CLECs. To accomplish even the above-described schedule, BellSouth appears willing to jeopardize infrastructure improvements it previously described to the Commission as vital and the implementation of FTTF requests mandated by the Georgia PSC – making both determinations unilaterally.

41. BellSouth’s unwillingness to commit sufficient resources, in addition to being noted in the *Five-State 271 Order* and commented on by the DOJ, was a factor in

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WNS-103 lists those flow through improvement features, errors, and defects that have already been implemented. A total of thirty-five items are listed, and each has been implemented.” Stacy Aff., ¶ 450. Neither the brief nor Mr. Stacy address the 25 FTTF feature change requests that have *not* been implemented. Attachment 3 hereto, the current status of the FTTF distributed to the CLECs by e-mail on October 3, 2003, reflects 13 FTTF requests Implemented, 11 Scheduled (FTTF-05 and FTTF-18 shown on the scheduled page have been implemented), and 14 to be scheduled. Further, Mr. Stacy’s affidavit states that BellSouth would willfully plan to violate the CCP in relationship to implementing these mandated changes: “BellSouth may/may not schedule Flow-Through Task Force (“FTTF”) Type 2 requests to be worked ahead of Types 4/5.” Stacy Aff., ¶236. If BellSouth cannot accurately report the status of FTTF matters, what assurance can CLECs and regulators have that BellSouth will implement change control requests as promised?

the recent orders of the Florida and Georgia PSCs adopting new performance measurements for change management and even in the order of the South Carolina Commission approving BellSouth's 271 Application in that state. As Mr. Stacy notes (Stacy Aff., ¶ 196), the Florida and Georgia PSCs have imposed a suite of 11 metrics and 5 Tier 2 penalties associated with the CCP. The South Carolina PSC ordered BellSouth to "include in the SQM appropriate metrics that measure and assess BellSouth's responsiveness to CLEC-initiated changes submitted to the Change Control Process ("CCP"), and BellSouth shall include *at least one* payment category under Tier 1 of the IPP for assessing the effectiveness of the CCP regarding CLECs."<sup>14</sup>

42. BellSouth, however, is already attempting to evade these orders. As previously stated, BellSouth has requested the Florida PSC to relieve it of any obligation to pay penalties if it fails to implement existing change requests within 60 weeks. On August 29, 2002, in response to the South Carolina PSC's order, BellSouth asked the SCPSC to accept the *status quo* of the five Tier 2 penalties in lieu of any Tier 1 penalties (which would be paid to CLECs). See Attachment 4 hereto. AT&T's September 25, 2002, response to BellSouth's South Carolina proposal is attached hereto as Attachment 5. In its response, AT&T proposed that each of the five existing CCP metrics having associated Tier 2 penalties be modified to also generate Tier 1 penalties to the CLECs harmed by BellSouth's performance failures and that three additional metrics be included in the Incentive Penalty Plan ("IPP"). AT&T and five other CLECs have also made this

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<sup>14</sup> South Carolina PSC Order No. 2002-77, issued February 14, 2002, at 119 (emphasis added).

same proposal to the Florida PSC in Docket No. 000121A-TP as a part of the Six-Month Review process of performance metrics. Such Tier 1 payments are necessary to compensate CLECs for the harm resulting from BellSouth's performance failures and to provide incentive to BellSouth which has already demonstrated that it considers Tier 2 payments to be an acceptable cost of doing business.

#### **IV. BELLSOUTH'S SOFTWARE RELEASES ARE PLAGUED BY DEFECTS.**

43. It is critical that, before BellSouth implements a software release, BellSouth conduct sufficient internal testing to minimize the number of defects that in the software upon actual implementation. Implementation of software having serious flaws can disrupt CLECs' operations and inhibit their ability to perform transactions successfully on the OSS. As the Commission stated in the *Georgia/Louisiana 271 Order*, "software releases with numerous defects inhibit smooth transactions between releases." *Georgia/Louisiana 271 Order*, ¶ 195.

44. In both the *Georgia/Louisiana 271 Order* and the *Five-State 271 Order*, the Commission expressed its concern with the number of defects in BellSouth's software releases. In the *Georgia/Louisiana Order*, the Commission stated that it intended "to monitor BellSouth's performance in that regard." *Id.* In the *Five-State 271 Order*, the Commission stated that it shared the concerns of the DOJ and the CLECs "regarding the number of defects in BellSouth's releases," but concluded that the quality of BellSouth's software had improved. *Five-State 271 Order*, ¶¶ 198, 200.

45. As in its Five-State application, BellSouth contends in its latest application that its performance in minimizing the number of defects in its releases “continues to be strong.” Application at 57. BellSouth’s performance, however, has been consistently poor. BellSouth’s releases have been riddled with defects. The third-party report that BellSouth cites as evidence of its “strong performance” is unreliable, given its flawed methodology. Finally, the problems created by the numerous defects in BellSouth’s releases are compounded by BellSouth’s failure to correct the defects in a timely manner.

**A. BellSouth’s Defect Correction Continues to Be Untimely and BellSouth Does Not Appear to be Implementing any Corrective Activity.**

46. As Mr. Stacy notes (Stacy Aff., ¶ 267), the Florida PSC ordered reduction in defect correction intervals to 10 business days for severity 2 defects (high impact), 30 business days for severity 3 defects (medium impact), and 45 business days for severity 4 defects (low impact) became effective on August 1, 2002.<sup>15</sup> As a part of its “50/50” Plan, BellSouth stated that it would be its policy to implement defect corrections in Maintenance Releases rather than utilize Production Releases unless it were necessary to implement in a production release to comply with interval requirements. A review of BellSouth’s handling of active defect change requests during the month of September 2002, using the end of month Daily Change Request Activity Report, reveals that during the month BellSouth reported activity on 28 software and 7 documentation defects for a

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<sup>15</sup> The intervals in effect prior to August were 10, 90, and 120 business days. BellSouth “voluntarily” extended the reduced intervals to all nine states by notice letters to each state regulatory body, and the Georgia PSC formally ordered these same intervals on September 17, 2002.

total of 35. The following table summarizes the status of 35 active defect change requests for which BellSouth reported activity for September.<sup>16</sup>

| Defect CR Number and Date of Last Report | Date Validated    | Impact        | Projected/<br><i>Actual</i><br>Correction Date | Projected/ <i>Actual</i><br>Business Day Interval |          |
|--|-------------------|---------------|--|---|----------|
|  |                   |               |  | Software  | Document |
| 869 (9/30)                               | 7/17              | Medium        | <b>8/25</b>                                    | <b>27</b>   |          |
| 868 (9/30)                               | 7/17              | Medium        | Jan 2003                                       | 118   |          |
| 867 (9/30)                               | 7/17              | Medium        | 12/08  | 100   |          |
| 951 (9/30)                               | 9/18              | High          | <b>9/27</b>                                    | <b>7</b>  |          |
| 972 (9/27)                               | 9/27              | Low           | 10/12  | 10  |          |
| 971 (9/27)                               | 9/27              | Low           | 10/12  | 10  |          |
| 969 (9/27)                               | 9/27              | Low           | 10/12  | 10  |          |
| 968 (9/27)                               | 9/27              | Low           | Jan 2003                                       | 67  |          |
| 966 (9/27)                               | 9/26              | Medium        | TBD  | Unk [11] <sup>1</sup>                             |          |
| 895 (9/27)                               | 9/27 <sup>4</sup> | Low           | TBD  | Unk [10]  |          |
| 820 (9/27)                               | 6/7               | Low           | <b>8/25</b>                                    | <b>55</b>   |          |
| 957 (9/26)                               | 9/26              | Documentation | 10/27  |   | 21       |
| 920 (9/24)                               | 8/22              | Low           | 12/08  | 73  |          |
| 936 (9/24)                               | 8/30              | Medium        | 12/08  | 67  |          |
| 930 (9/24)                               | 8/27              | Medium        | 12/08  | 70  |          |
| 929 (9/24)                               | 8/27              | Medium        | 12/08  | 70  |          |
| 928 (9/24)                               | 8/27              | Medium        | 12/08  | 70  |          |
| 953 (9/20)                               | 9/18              | Documentation | <b>9/27</b>                                    |   | <b>7</b> |
| 950 (9/18)                               | 9/12              | Documentation | <b>9/17</b>                                    |   | <b>3</b> |
| 833 (9/16)                               | 9/16 <sup>2</sup> | Medium        | TBD  | Unk [18]  |          |

<sup>16</sup> The activity that BellSouth reports for these change requests does not give a full picture of the extent of its software defects. At the end of September, according to BellSouth's data, there were 45 validated or scheduled software defect change requests.

|            |                   |               |             |           |
|------------|-------------------|---------------|-------------|-----------|
| 943 (9/16) | 9/4               | High          | <b>9/14</b> | <b>7</b>  |
| 937 (9/13) | 8/30              | Low           | 12/08       | 67        |
| 948 (9/12) | 9/12              | Documentation | 12/09       | 60        |
| 947 (9/12) | 9/12              | Documentation | 12/09       | 60        |
| 945 (9/12) | 9/11              | Low           | TBD         | Unk [21]  |
| 832 (9/10) | 6/18 <sup>3</sup> | Medium        | 10/12       | 123       |
| 944 (9/9)  | 9/9               | Low           | TBD         | Unk [23]  |
| 934 (9/6)  | 8/30              | High          | <b>9/5</b>  | <b>3</b>  |
| 933 (9/6)  | 8/30              | High          | <b>9/5</b>  | <b>3</b>  |
| 931 (9/4)  | 9/4               | Documentation | 12/9        | 66        |
| 919 (9/4)  | 9/4               | Low           | TBD         | Unk [26]  |
| 872 (9/4)  | 7/24              | Unknown       | <b>8/25</b> | <b>22</b> |
| 932 (9/4)  | 8/28              | High          | <b>8/28</b> | <b>1</b>  |
| 940 (9/3)  | 9/3               | Medium        | TBD         | Unk [27]  |
| 938 (9/3)  | 9/3               | Documentation | 12/09       | 67        |

1 – Unk reflects that BellSouth has not announced when it plans to correct these defects. [xx] is the number of business days that have passed from the validation of the defect until the filing of this declaration.

2 – When CR0833 was submitted on June 20, 2002, it was initially declared “Not a defect” by BellSouth. BellSouth re-classified it as a defect on September 16, 2002 – 77 days after the initial submission.

3 – CR0832 was originally scheduled for correction on August 25, 2002. However, on August 1, the correction was delayed until October 12. The delay itself, 34 business days, exceeds the 30-day objective that became effective on August 1.

4 – CR0895 was submitted on August 13 and not classified or validated until September 27. The elapsed business day interval from this submission is 41 days.

47. Of the 28 software defects, 5 were high impact, 11 were medium impact, 11 were low-impact, and the impact level of one was not indicated. The high-impact defects were reported as being implemented in intervals of 1, 3, 3, 7 and 7 business days. The one defect whose impact level was not indicated was implemented in 22 business days.

48. Of the 11 medium-impact defects, one was implemented in a 27 day interval, three defects have unknown Projected Correction Intervals and are 11, 18, and 27 business days past validation against a 30 day interval objective, and the other seven have Projected Correction Intervals of 67, 70, 70, 70, 100, 118, and 123 business days, ranging from over two to over four times the objective.

49. Similarly, one of the low-impact defects was implemented in a 55-day interval, four have unknown Projected Correction Intervals and are 10, 21, 23, and 26 business days past validation against a 45 day interval objective, and the other six have intervals of 10, 10, 10, 67, 67 and 73 days.

50. Thus in September, well after the Florida PSC's July Order and the August 1 effective date of the new objectives, BellSouth has knowingly planned to correct 20 defects validated or updated in September at intervals up to four times greater than the objective. Additionally, BellSouth knowingly plans to correct more recently identified low impact defects significantly in advance of medium impact defects validated earlier. The haphazard defect correction process, revealed by BellSouth's own reports, does not meet the needs of the CLECs nor the requirements and expectations of the Commission.

**B. The Q/P Management Report On Which BellSouth Relies Is Fatally Flawed.**

51. Despite its claim of "strong" performance, BellSouth's recent releases continue its longstanding practice of implementing software releases containing numerous defects. In its final report on its third-party testing of the OSS in Florida, for example,

KPMG found that BellSouth's Release 10.5 – which was implemented in June 2002 – contained 28 software and 24 documentation defects. Citing these defects – and the numerous defects that it had observed in BellSouth's Releases 10.2 and 10.3 – KPMG concluded that BellSouth was not consistently following its software/interface development methodology or its Quality Assurance Process. As a result, KPMG found that BellSouth had “not satisfied” three evaluation criteria directly involving the quality of its releases.<sup>17</sup>

52. BellSouth cites a report prepared for BellSouth by Q/P Management Group (“Q/P”) to support its claim that its software quality – including the quality of Release 10.5 – “is excellent when compared to objective, external industrial software development standards.” Stacy Aff., ¶¶ 248-251 & Exh. WNS-56.

53. In its *Five-State 271 Order* the Commission relied upon the Q/P report, which BellSouth filed only with its Reply Comments in that proceeding (thereby denying CLECs the opportunity to respond in their own reply comments), in concluding that the quality of BellSouth's software was adequate. *Five-State 271 Order*, ¶ 199 & n.768. As discussed below, however, the Q/P report is flawed and does not support BellSouth's position or the Commission's prior conclusion.

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<sup>17</sup> See KPMG Final Report, Version 2.0, issued July 30, 2002, at 101-106, 120-121. The evaluation criteria that were “not satisfied” reviewed whether: (1) BellSouth has a software/interface development methodology that addresses requirements and specification definition, design, development, testing, and implementation; (2) BellSouth's interface development methodology has a defined quality assurance process; and (3) BellSouth has a software and interface development methodology that defines the process

54. Citing the Q/P report, BellSouth asserts that its “Defect Density” is currently “comparable to” or “slightly better” than the industry best in class. Stacy Aff., ¶¶ 145, 251. BellSouth even asserts that it “actually is improving its release quality as the releases become more complex.” *Id.*, ¶ 250. This is incorrect.

55. In the software industry, there is *an* accepted measure of “size” used to compare software development projects of different physical sizes (lines of code) and complexities. This measure is the Number of Function Points. The Q/P Report provides a good summary of how Function Point counts are determined. The measure “Defects per Function Point” is also *an* accepted measure of the quality of a development project. However, a shortcoming of the Defects per Function Point methodology as a quality measure is that it treats all defects as if they had the same impact upon a software user’s operations.

56. Neither Function Point Counts nor Defects per Function Point are used uniformly throughout the industry. In fact, the Q/P Report states that “Telcordia Technologies and ESI<sup>18</sup> do not collect function points on all delivered projects.” *Id.*, Exh.

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for release management and control.

<sup>18</sup> Throughout its report, Q/P refers to ESI as a vendor to BellSouth. Mr. Stacy however names two “primary” vendors, Telcordia and Accenture. Stacy Aff., ¶ 252. Q/P never mentions any investigation of Accenture’s applications. A search of the Internet reveals two vendors using the name “ESI” who could be vendors to BellSouth in relationship to its BellSouth/CLEC OSS interfaces, Electronic Systems ([www.est.net](http://www.est.net)) and ESI/Technology ([www.esitech.com](http://www.esitech.com)). If ESI is a vendor to BellSouth, inclusion of its work in QP’s analysis is appropriate. However, failure to include Accenture’s applications is inappropriate and makes QP’s report incomplete and meaningless. If, in their combined haste to make this demonstration, BellSouth and Q/P failed to notice this obvious error in

WNS-56 at 5. None of AT&T's internal software development groups or external vendors engaged in the programming of AT&T's OSS interfaces to ILECs is using these techniques.<sup>19</sup>

57. Function point count determination began decades ago in large mainframe computing environments, is expensive, and has not been found to be generally worth the effort in modern distributed client/server environments such as those used in BellSouth/CLEC OSS interfaces. An excellent Frequently Asked Questions ("FAQ") on the topic can be found at <http://ourworld.compuserve.com/homepages/softcomp/fpfaq.htm>. The FAQ includes a discussion of the problems associated with determining function counts in client/server environments. The FAQ lists Q/P as a firm involved in function point analysis and its use to monitor outsourcing agreements.

58. Q/P's fundamental error is its failure to determine the number of defective function points in each of the releases. Q/P counted each "defect report" as a single defective function point. Using BellSouth's Release 10.5 as an example:

- BellSouth reported that the release contained 474,000 new lines of code including 20,108 function points. Stacy Aff. in *Five-State* 271 proceeding, ¶¶ 73-74.

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the analysis, one wonders what other errors were made.

<sup>19</sup> Accenture is a vendor to both BellSouth and AT&T. AT&T's Accenture team does not utilize function point analysis.

- BellSouth reported the release contained 2 known “defects” when implemented and that 35 more were detected in the 30 days following implementation. *Id.*, ¶ 73.
- Q/P and BellSouth ultimately reported that their analysis found a total of 94 “defects” -- 34<sup>20</sup> CLEC affecting defects and 60 non-CLEC affecting defects.<sup>21</sup> (*Id.*, ¶ 74; Stacy Aff., Exh. WNS-56 at 12; BellSouth August 21 *ex parte* at 2).
- BellSouth and Q/P calculate the defect density as  $94/20108 = .00467$  defects per function point. Stacy Aff., ¶ 250.

59. This calculation is incorrect, as the number of defective *function points* was never determined. A user’s “defect report” will equate to the failure of a single function point only in the rarest case. While the name of the metric is Defects per Function Point, the actual data required is *defective function points* and *total function points*. Neither BellSouth nor Q/P has determined the number of defective function points. The numerator and denominator of the calculation are simply not expressed in the same units. Q/P’s report thus provides no meaningful information as to the quality of BellSouth’s software.

60. By contrast, Mr. Stacy’s reply affidavit in the *Five-State 271* proceeding confirms that BellSouth’s software development quality has been and remains poor, and Q/Ps data on “non-CLEC affecting defects” reveal that it is even worse than previously believed. In paragraph 22 of that reply affidavit, Mr. Stacy provided the

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<sup>20</sup> Neither BellSouth nor Q/P accounts for the failure of this analysis to include the two defects known to exist at implementation.

<sup>21</sup> Given that the software being analyzed exists only to serve CLECs, the concept of “non-CLEC affecting defects” is incongruous.

following table showing the total number of change requests that had been implemented through July 22, 2002.<sup>22</sup>

| Classification           | Mandate<br>(2) | Industry<br>(3) | BST Initiated (4) | CLEC Initiated<br>(5) | Defects (6) |
|--------------------------|----------------|-----------------|-------------------|-----------------------|-------------|
| New                      | 1              | 0               | 2                 | 12                    | 8           |
| Pending<br>Clarification | 0              | 0               | 0                 | 1                     | 10          |
| Pending                  | 4              | 1               | 0                 | 3                     | 0           |
| Candidate Request        | 14             | 0               | 8                 | 19                    | 0           |
| Validated                | 0              | 0               | 0                 | 0                     | 23          |
| Scheduled                | 9              | 0               | 1                 | 3                     | 54          |
| Implemented              | 19             | 0               | 44                | 43                    | 345         |

61. From this table we can determine that there have been 106 feature changes implemented and 422 publicly announced “CLEC affecting” defects validated, scheduled or implemented.<sup>23</sup> Thus BellSouth’s ratio of defects per feature implemented is 3.98. Stated otherwise, for each feature implemented, BellSouth’s software development has resulted in 4 publicly announced defects.

62. Even this picture, however, is incomplete. Q/P’s report provides, for the first time anywhere, data that reveal that BellSouth’s software contains even *more* defects than publicly announced. In 2002, according to the Q/P report, there have been

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<sup>22</sup> The starting point for the data in this table is June 1999.

<sup>23</sup> Only implemented features can have a defect. After a software release (containing a number of features) is placed into production, the defects begin to “surface,” and once BellSouth admits a defect exists (“validated”), that problem is counted as a defect associated with that release. As work on the defect continues, (it is scheduled, or it is implemented) its classification changes, but it is still counted as a defect against an implemented release.

167 additional software defects.<sup>24</sup> Stacy Aff., Exh. WNS-56 at 12. If we simply add these 167 defects to the 422, the new count becomes 589 and the new ratio is 5.56. This total does not even include “non-CLEC affecting” defects in 1999, 2000 and 2001 (the quantity of which is still unknown), which would increase this ratio even further.

63. Looking specifically at Release 10.5 we find that the release implemented 11 features (Stacy Reply Aff. in *Five-State 271* proceeding, Exhibit 12) and by BellSouth’s and Q/P’s admissions resulted in 94 defects - a ratio of 8.55.<sup>25</sup> A software development process that results in the creation of four to nine defects for every feature implemented can only be described as poor.

64. In BellSouth’s new application, Mr. Stacy extends the invalid process of performing a calculation using different units in the numerator and denominator to an analysis of Release 10.6. Stacy Aff., ¶¶ 256-259. Like his analysis of Release 10.5, however, Mr. Stacy’s calculations use only 30 days of data, rather than the 90 days used as the industry standard.

65. Q/P’s hastily prepared report is therefore defective in numerous respects that deprive it of any probative value. The report is based on:

- improper identification of BellSouth’s vendors;

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<sup>24</sup> Of course, BellSouth’s failure to publicly document these defects through the Change Control Process is another example of its continuing failure to adhere to the requirements of the CCP.

<sup>25</sup> Release 10.5 also implemented at least 26 publicly announced defect corrections.

- the acceptance of unverified data concerning existing function point counts;
- the conversion of line of code count data using unverified data in the absence of function counts;
- the use of only 30 days' data rather than 90 for Release 10.5, and
- the calculation of a ratio using dissimilar units compared to a benchmark composed of data from unspecified sources

The Commission therefore should give BellSouth's entire flawed function point analysis and Q/P Report no weight in its determinations in this docket.

**C. BellSouth's Explanations For Defects In Its Releases Do Not Withstand Scrutiny.**

66. In his affidavit, Mr. Stacy repeats BellSouth's previous explanations for the defective implementation of CR0756 (UNE-P calling scope) in Release 10.6 initially made in a BellSouth *ex parte* letter filed on September 10, 2002. Stacy Aff., ¶ 261-263. These explanation, however, do not withstand scrutiny.

67. First, several CLECs experienced and reported the defective operation of CR 0756, not just AT&T.<sup>26</sup> In its application, BellSouth claims that three factors contributed to the manual fall-out experienced by AT&T as a result of the implementation of CR 0756, "none of which was attributable to a defect in Release 10.6." *Id.*, ¶ 261. BellSouth, however, has also mentioned these factors in its discussions with other CLECs. In short, BellSouth's explanations "blame the victim" and demonstrate how BellSouth

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<sup>26</sup> I am personally aware that MCI, Birch, DeltaCom and Network Telephone all experienced and reported this defect.

frustrates CLEC attempts to use OSS improvements by imposing unnecessary process steps.

68. BellSouth's first explanation is that the Interconnection Agreements had not been updated and therefore the "new" USOCs were not available. *Id.* This is not correct. If it were true, *all* UNE-P migration orders placed by AT&T (and others) using the methods in place before the implementation of Release 10.6 and CR0756 would have either rejected or fallen out for manual processing, not simply the hundreds that did. When AT&T approached its BellSouth Interconnection Agreement contacts, the BellSouth attorney stated that she did not understand why AT&T's contract, which already provided AT&T the right to purchase the UNE-P, would need amendment.

69. BellSouth's other explanations involve documentation that it should have provided to CLECs with the required information. *See id.*, ¶¶ 262-63. In each case, BellSouth admits to conflicts within its documentation at various points during the planning for the implementation of CR0756. Given the number of CLECs that encountered and reported this defect, BellSouth's documentation guiding the CLECs' coding and process revisions was never effectively clarified before the implementation of this change. Although AT&T's issues with this defect have been rectified, I understand that as of the end of September 2002, a number of other CLECs were still encountering difficulties.

70. BellSouth's issuance of inadequate documentation in connection with its implementation of change requests continues today. Because of defective documentation, a change in the OSS relating to BellSouth's entry to the long-distance market continues to plague CLECs whose local customers desire to select BellSouth as their long-distance carrier. BellSouth Long Distance has still not produced the "Operational Agreement" that BellSouth Telecommunications has told the CLECs must be in place before BellSouth Telecommunications will accept the CLEC's order. AT&T's attempts to obtain a copy of this agreement have been unsuccessful. A CLEC has initiated CR0923 in an attempt to resolve this impasse. To AT&T's knowledge, no other interexchange carrier has an arrangement with BellSouth Telecommunications that allows BellSouth Telecommunications to perform on its behalf in this manner.

71. Adequate, timely, and accurate documentation is necessary to an effective CCP. In 2002 CLECs have discussed with BellSouth efforts to improve the timeliness, quality and usability of the documentation provided to CLECs. *See Stacy Aff.*, ¶ 182. Yet, when BellSouth recently released the coding matrix for Release 11.0, the contents of the matrix were inaccurate. On September 18, 2002, BellSouth published CR0950 (Attachment 6 hereto) explaining the circumstances surrounding this event, its correction, and announcing a meeting "to present a documented process for approval to preclude any reoccurrence of a similar breakdown in the future." BellSouth's continuing issuance of defective or inadequate documentation after nine months of focused effort is further evidence of the deficiencies in the CCP.

## **V. CONCLUSION**

72. The evidence demonstrates that BellSouth's CCP does not afford an efficient competitor a meaningful opportunity to compete, but instead constitutes an ongoing barrier to entry and growth by increasing the CLEC's development and operational costs and reducing the certainty that its development expenses will result in the improvements anticipated. Only now, and only as a result of regulatory orders issued by the Florida and Georgia PSCs in the last three months, has BellSouth put in place a CCP Document that describes a process capable of producing the results required to demonstrate that the CCP is effective, if BellSouth adheres to that process. Of course, BellSouth's compliance with the procedures it has been ordered to implement cannot yet be measured. BellSouth will begin reporting data to comply with the new SQM metrics with the month of August, and the data will be published sometime in October. However, as discussed above, it is already clear that BellSouth has determined that in many areas it considers the penalties associated with violating the CCP metric objectives as an acceptable cost of doing business, or is simply attempting to avoid them.